



Missouri Risk-Based Corrective Action - Management of Contamination Originating off the Property

Hazardous Waste Program fact sheet

5/2010

This fact sheet applies to sites being addressed under 10 CSR 25-18.010 and associated guidance where investigation data demonstrates that contamination has migrated in soil or groundwater onto a property enrolled in the Brownfields/Voluntary Cleanup Program, or BVCP, from an adjacent or nearby property.

The Risk-Based Corrective Action Process rule, 10 CSR 25-18.010, became effective on Oct. 30, 2009. Section (1)(A)30 of the rule defines “site” as: “[The] areal extent of contamination inclusive of contamination both on the property at which the contamination originated and on all adjacent and nearby properties onto which such contamination has or is likely to migrate.”

The foregoing definition of “site” does not address situations where environmental investigations discover contamination on a specific property enrolled in the BVCP did not originate on that property. This fact sheet is intended to address such situations.

As part of a Phase I Environmental Site Assessment, contamination on adjacent or nearby properties that may impact the subject property constitutes a Recognized Environmental Condition. When the investigation of a property enrolled in the BVCP finds contamination on the enrolled property did not originate on the property, the BVCP participant must:

- Investigate that portion of the contamination found on their property.
- Assess the risk posed by the contamination.
- If the level of risk is found to exceed applicable standards, conduct remediation or risk management to lower the risk to acceptable standards.

A participant in the Brownfields/Voluntary Cleanup Program is under no obligation to investigate an adjacent or nearby property for contamination originating on that property. However, in some cases, particularly those involving groundwater contamination, remedial actions might prove difficult if the scope of the actions is not expanded to include the source of the contamination. In those cases, the BVCP participant must either obtain permission from the adjacent or nearby landowner to access their property and remediate the source of contamination or obtain an agreement from the landowner to address the source her or himself.

If the owner of the source property is unwilling to address the contamination or to allow the BVCP participant access to their property, the department has the option of using an authority other than the BVCP law and regulation to require the adjacent property owner address the contamination or allow the BVCP participant to do so. Whether the department uses such authority to compel investigation and cleanup is dependent on several factors, including the

degree of risk posed by the contamination and the specific regulatory authority deemed applicable. In any case, the department cannot issue a Certification of Completion for a property enrolled in the BVCP at which risk levels exceed acceptable standards, regardless of the source of the contamination.

The departmental MRBCA guidance and related information is available online at www.dnr.mo.gov/env/hwp/mrbca/mrbca.htm.

Please direct questions regarding this fact sheet to the Hazardous Waste Program, P.O. Box 176, Jefferson City, MO 65102-0176, or by calling 573-751-3176.

For More Information

Missouri Department of Natural Resources
Hazardous Waste Program
P.O. Box 176
Jefferson City, MO 65102-0176
800-361-4827 or 573-751-3176
www.dnr.mo.gov/env/hwp